

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 1921

By: Laster and Leftwich of the
Senate

6 and

7 Peterson (Pam) of the House

8
9 COMMITTEE SUBSTITUTE

10 An Act relating to the Protection from Domestic Abuse
11 Act; amending 22 O.S. 2001, Section 60.2, as last
12 amended by Section 1, Chapter 302, O.S.L. 2006 (22
13 O.S. Supp. 2007, Section 60.2), which relates to
14 protective order; allowing certain action to be heard
15 by specified court under certain circumstances;
16 prohibiting dismissal of certain orders; and
17 providing an effective date.

18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. AMENDATORY 22 O.S. 2001, Section 60.2, as
20 last amended by Section 1, Chapter 302, O.S.L. 2006 (22 O.S. Supp.
21 2007, Section 60.2), is amended to read as follows:

22 Section 60.2 A. A victim of domestic abuse, a victim of
23 stalking, a victim of harassment, a victim of rape, any adult or
24 emancipated minor household member on behalf of any other family or
household member who is a minor or incompetent, or any minor age

1 sixteen (16) or seventeen (17) years may seek relief under the
2 provisions of the Protection from Domestic Abuse Act.

3 1. The person seeking relief may file a petition for a
4 protective order with the district court in the county in which the
5 victim resides, the county in which the defendant resides, or the
6 county in which the domestic violence occurred. If the person
7 seeking relief is a victim of stalking but is not a family or
8 household member or an individual who is or has been in a dating
9 relationship with the defendant, the person seeking relief must file
10 a complaint against the defendant with the proper law enforcement
11 agency before filing a petition for a protective order with the
12 district court. The person seeking relief shall provide a copy of
13 the complaint that was filed with the law enforcement agency at the
14 full hearing if the complaint is not available from the law
15 enforcement agency. Failure to provide a copy of the complaint
16 filed with the law enforcement agency shall constitute a frivolous
17 filing and the court may assess attorney fees and court costs
18 against the plaintiff pursuant to paragraph 2 of subsection C of
19 ~~Section 60.2 of this title~~ this section. The filing of a petition
20 for a protective order shall not require jurisdiction or venue of
21 the criminal offense if either the plaintiff or defendant resides in
22 the county. If a petition has been filed in an action for divorce
23 or separate maintenance and either party to the action files a
24 petition for a protective order in the same county where the action

1 for divorce or separate maintenance is filed, the petition for the
2 protective order ~~shall~~ may be heard by the court hearing the divorce
3 or separate maintenance action if:

4 a. there is no established protective order docket in
5 such court, or

6 b. the court finds that, in the interest of judicial
7 economy, both actions may be heard together; provided,
8 however, the petition for a protective order,
9 including, but not limited to, a petition in which
10 children are named as petitioners, shall remain a
11 separate action and a separate order shall be entered
12 in the protective order action. Protective orders may
13 be dismissed in favor of restraining orders in the
14 divorce or separate maintenance action if the court
15 specifically finds, upon hearing, that such dismissal
16 is in the best interests of the parties and does not
17 compromise the safety of any petitioner.

18 If the defendant is a minor child, the petition shall be filed
19 with the court having jurisdiction over juvenile matters.

20 2. When the abuse occurs when the court is not open for
21 business, such person may request an emergency temporary order of
22 protection as authorized by Section 40.3 of this title.

1 B. The petition forms shall be provided by the clerk of the
2 court. The Administrative Office of the Courts shall develop a
3 standard form for the petition.

4 C. 1. Except as otherwise provided by this section, no filing
5 fee, service of process fee, attorney fees or any other fee or
6 costs shall be charged the plaintiff or victim at any time for
7 filing a petition for a protective order whether a protective order
8 is granted or not granted. The court may assess court costs,
9 service of process fees, attorney fees, other fees and filing fees
10 against the defendant at the hearing on the petition, if a
11 protective order is granted against the defendant; provided, the
12 court shall have authority to waive the costs and fees if the court
13 finds that the party does not have the ability to pay the costs and
14 fees.

15 2. If the court makes specific findings that a petition for a
16 protective order has been filed frivolously and no victim exists,
17 the court may assess attorney fees and court costs against the
18 plaintiff.

19 D. The person seeking relief shall prepare the petition or, at
20 the request of the plaintiff, the court clerk or the victim-witness
21 coordinator, victim support person, and court case manager shall
22 prepare or assist the plaintiff in preparing the petition.

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SECTION 2. This act shall become effective November 1, 2008.

51-2-11074 SD 04/10/08